

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN

STROTHER RODRIQUEZ

Plaintiff,

-vs.-

DEMAND FOR JURY TRIAL

COMMERCIAL RECOVERY SYSTEMS, INC.,

a foreign corporation

Defendant.

COMPLAINT & JURY DEMAND

Plaintiff, Strother Rodriquez, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

JURISDICTION

1. This court has jurisdiction under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

PARTIES

3. The Defendant to this lawsuit is Commercial Recovery Systems which is a foreign corporation that resides as defined at 15 U.S.C. 1391(c), in Bingham Farms, Michigan

VENUE

4. The transactions and occurrences which give rise to this action occurred in El Paso County.
5. Venue is proper in the Eastern District of Michigan.

GENERAL ALLEGATIONS

6. Defendant is attempting to collect on a consumer type debt allegedly owed by the Plaintiff.
7. The original creditor was Triad Financial, but that debt has since been transferred to Santander Consumer USA.
8. On or about February 9, 2011, Emerson Abbott from the Defendant's office called Plaintiff on his cell phone. Mr. Abbott threatened to make this debt "go to judgment." He also threatened to take the Plaintiff's vehicle.
9. On or about March 22, 2011, Defendant threatened to call Plaintiff's neighbors and family if Plaintiff does not return Defendant's phone call.
10. The Plaintiff has suffered damages as a result of these violations of the FDCPA.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

11. Plaintiff reincorporates the preceding allegations by reference.
12. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.

13. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.

14. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).

15. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;

16. The Plaintiff has suffered damages as a result of these violations of the FDCPA.

COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE

17. Plaintiff incorporates the preceding allegations by reference.

18. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).

19. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).

20. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915

21. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.

22. These violations of the Michigan Occupational Code were willful.

COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT

23. Plaintiff incorporates the preceding allegations by reference.

24. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.

25. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.

26. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252

27. Plaintiff has suffered damages as a result of these violations of the MCPA.

28. These violations of the MCPA were willful.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.
- d. Statutory costs and attorney fees.

Respectfully submitted.

April 8, 2011

/s/ Gary Nitzkin
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